

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

FILED

SEP 06 2016

Clerk, U.S. District Court
District Of Montana
Billings

GREGORY L. WALLACE,

Plaintiff,

vs.

UNITED STATES,

Defendant.

CV 16-115-BLG-SPW

ORDER

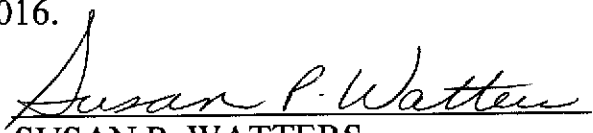
Plaintiff Gregory L. Wallace is a state prisoner proceeding pro se. He filed this action on July 21, 2016. (Doc. 1). United States Magistrate Judge Carolyn Ostby issued Findings and Recommendations on August 19, 2016, in which she concluded that Wallace has failed to show cause why his motion to proceed in forma pauperis should not be denied. (Doc. 4 at 1). Judge Ostby also noted that Wallace has filed four civil actions that have been dismissed for failure to state a claim. She notes that he has exceeded the three “strikes” allowed by the Prison Litigation Reform Act to a prisoner attempting to proceed in forma pauperis in a federal civil lawsuit. She further notes that he failed to show that he qualifies for the “imminent danger of serious physical injury” exception provided in 28 U.S.C. § 1915(g). Judge Ostby therefore recommends that this Court deny Wallace’s motion to proceed in forma pauperis.

Pursuant to 28 U.S.C. § 636(b)(1), Wallace had 14 days to file written objections after Judge Ostby's Findings and Recommendations were filed. No objections were filed. When neither party objects, this Court must still review Judge Ostby's conclusions for clear error. Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir.2000). After reviewing the Findings and Recommendations, this Court does not find that Judge Ostby committed clear error.

Accordingly, IT IS HEREBY ORDERED:

1. Judge Ostby's Findings and Recommendations (Doc. 4) are ADOPTED IN FULL.
2. Wallace's Motion to Proceed in Forma Pauperis (Doc. 3) is DENIED.
3. The Clerk of Court is directed to close the case and enter judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure if Wallace fails to pay the \$400.00 filing fee within thirty days of the date of this Order.

DATED this 6th day of September 2016.


SUSAN P. WATTERS
United States District Judge